

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

KEITH LAMAR WOODS,)
Petitioner, pro se,)
v.)
UNITED STATES OF AMERICA,) 1:09CV917
Respondent.) 1:06CR189-2

ORDER

On November 16, 2010, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed, and notice was served on the parties in this action, and a copy was given to the court.

Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.¹

The court has reviewed the portions of the Magistrate Judge's report to which objection was made and has made a *de novo* determination, which is in accord with the Magistrate Judge's

¹ While the Magistrate Judge's Recommendation was under review, the clerk of the court received Petitioner's objections, but they were not timely docketed. Consequently, this court issued a Judgment (Doc. 78 in case 1:06cr00189 2) before receiving Petitioner's objections. That error has now been corrected, the objections have been carefully reviewed and considered, the matter has been reviewed *de novo*, and the court remains firm in its decision to adopt the Recommendation. This Order and accompanying Judgment supersedes the court's prior Judgment. To the extent that Petitioner complains about the Magistrate Judge reviewing the case in the first instance, Congress has clearly authorized this court to refer matters to the Magistrate Judge for recommendations. 28 U.S.C. § 636. Therefore, those objections are of no moment.

report. The court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Petitioner's motion to vacate, set aside or correct sentence (Doc. 42) is DENIED, that Respondent's motion to dismiss (Doc. 64) is GRANTED, and that this action is hereby DISMISSED. A judgment dismissing this action will be entered contemporaneously with this Order. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder
United States District Judge

January 5, 2011